IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Bail Appl..No. 4364 of 2007()

CRIME NO.102 OF 2007 OF RAJAPURAM POLICE STATION

: PETITIONER/ACCUSED

WILSON.T.K., AGED 40 YEARS,
S/O KURIAKOSE, RESIDING AT VATTAKKAYAM,
PANATHUR, PANATHUR P.O.

BY ADV. SMT.T.SUDHAMANI

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA REP.BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVEENDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4364 of 2007

Dated this the 19th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Section 352, 354 and 324 I.P.C. The petitioner and the defacto complainant are brothers-in-law. They have married sisters. The wife of the petitioner had allegedly returned to her house on account of a matrimonial quarrel. The petitioner allegedly trespassed into the house and indulged in culpable violent overt acts. Hearing the commotion the victim/defacto complainant had come to the scene. He was allegedly stabbed with a pen knife.

2. The incident took place on 03.07.07. Investigation is in progress. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There is a connected crime also registered. It is on account of animosity in respect of that crime, that false allegations are being raised against the petitioner. The petitioner may be granted anticipatory bail subject to appropriate conditions, submits the learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the application. No circumstances exist to justify the invocation of the extraordinary

equitable discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor.

5. Having considered all the relevant inputs, I am persuaded to agree with the learned Public Prosecutor. This, I am satisfied, is not a fit case where the discretion under Section 438 Cr.P.C can or ought to be invoked. This is an eminently fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate and then seek regular bail in the normal and ordinary course.

6. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-